

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ABBASID, INC. d/b/a AZHAR'S ORIENTAL RUGS,

Plaintiff,

vs.

Case No. Civ. 09-347 JP/LFG

FIRST NATIONAL BANK OF SANTA FE

Defendant.

Memorandum Opinion and Order

On February 24, 2011, Plaintiff Abbasid, Inc. filed a Motion for New Trial.¹ Defendant First National Bank of Santa Fe (FNBSF) filed its Response (Doc. No. 238) on March 9, 2011. Because Abbasid failed to timely file a reply, FNBSF filed a Notice of Briefing Complete (Doc. No. 240) on April 15, 2011. On that same day, Abbasid filed a Notice of Bankruptcy (Doc. No. 241). In its Notice of Bankruptcy, Abbasid noted that an involuntary petition for bankruptcy was filed against Abbasid on April 14, 2011. Abbasid attached a copy of the petition for involuntary bankruptcy to its Notice of Bankruptcy.

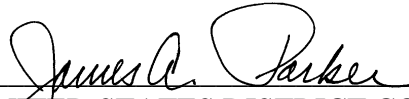
Under the bankruptcy code, a petition for involuntary bankruptcy “operates as a stay, applicable to all entities, of,” among other things, “the commencement or continuation . . . of a judicial . . . action or proceeding against a debtor that was or could have been commenced before the commencement” of the bankruptcy proceeding. 11 U.S.C. §362(a)(1). Thus, under

¹While Abbasid titled its Motion a “Motion for New Trial” Abbasid actually requests that the Court reconsider its January 27, 2011 Final Order of Dismissal (Doc. No. 237). Because Abbasid settled its claims against FNBSF, there was never a trial and thus Abbasid cannot now seek a “new” trial.

§362(a)(1), the proceedings in this Court were automatically stayed when the involuntary petition for bankruptcy was filed on April 14, 2011. Because the proceedings are stayed, any ruling on the substance of Abbasid's Motion for New Trial would be void and the Court is therefore precluded from reaching the merits of Abbasid's Motion for New Trial until the stay has been lifted. *See In re C.W. Mining Co.*, 625 F.3d 1240, 1246 (10th Cir. 2010).

Because the Court cannot take any substantive action on Abbasid's Motion for New Trial, the Court will at this time simply deny the Motion for New Trial, without prejudice, for administrative purposes. If, after the stay has been lifted, Abbasid wishes to have the Court consider Abbasid's Motion for New Trial, Abbasid must file, within fifteen days of the lifting of the stay, a motion to reinstate its Motion for New Trial. If Abbasid files a motion to reinstate its Motion for New Trial, the Court will then rule on Abbasid's Motion for New Trial

IT IS ORDERED THAT Plaintiff Abbasid, Inc.'s Motion for New Trial (Doc. No. 238) is DENIED, without prejudice, for administrative purposes.



SENIOR UNITED STATES DISTRICT COURT JUDGE